

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

TYLER BONNER,  
Plaintiff  
v.  
COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant

CASE NO. 2:20-CV-1572-DWC

ORDER DENYING MOTION TO  
ALTER OR AMEND JUDGMENT

On October 8, 2021, the Court determined the Administrative Law Judge (“ALJ”) properly concluded Plaintiff was not disabled and affirmed Defendant’s decision to deny Plaintiff’s applications for child’s insurance benefits and supplemental security income. Dkt. 34. The Court entered judgment for Defendant on the same date. Dkt. 35. Presently before the Court is Plaintiff’s Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P 59(e) (“Motion”).<sup>1</sup> Dkt. 36. Plaintiff argues the Court should alter the judgment and reverse Defendant’s decision to deny benefits because the Court’s decision is based on a clear error of law. *Id.* Specifically,

<sup>1</sup> Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule MJR 13, the parties have consented to have this matter heard by the undersigned Magistrate Judge. *See* Dkt. 2.

1 Plaintiff asserts the Court committed clear error when it declined to make a finding regarding the  
 2 constitutionality of 42 U.S.C. § 902(a)(3). *Id.* Plaintiff also asserts this Court erred by failing to  
 3 allow her to conduct discovery. *Id.*<sup>2</sup>

4 The Court may alter or amend a judgment under Rule 59(e) where the Court ““is  
 5 presented with newly discovered evidence, committed clear error, or if there is an intervening  
 6 change in the controlling law.”” *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (quoting  
 7 *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). Rule 59(e)  
 8 provides an “extraordinary remedy, to be used sparingly in the interests of finality and  
 9 conservation of judicial resources.” *Id.* (citation and internal quotation marks omitted). “A Rule  
 10 59(e) motion may not be used to raise arguments or present evidence for the first time when they  
 11 could reasonably have been raised earlier in the litigation.” *Id.*

12 In reaching its decision, the Court considered the record as a whole and the arguments of  
 13 the parties, including Plaintiff’s previously raised arguments related to the constitutionality of 42  
 14 U.S.C. § 902(a)(3). *See* Dkt. 34; *see also* Dkt. 28, 30, 33. The Court found Plaintiff’s arguments  
 15 requesting remand due to the unconstitutional appointment of the then-Commissioner of Social  
 16 Security lacked merit. Dkt. 34. Since filing the Motion, this District has found 42 U.S.C. §  
 17 902(a)(3) violates separation of powers, but the violation is not grounds to reverse ALJ  
 18 decisions. *See e.g. Lisa Y. v. Commissioner of Social Security*, -- F.Supp.3d --, 2021 WL  
 19 5177363 at \*5-8 (W.D. Wash. Nov. 8, 2021); *Alice A. v. Commissioner of Social Security*, Case  
 20 No. 3:20-CV-5756-RAJ (W.D. Wash. Nov. 24, 2011).

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 23 <sup>2</sup> Plaintiff also requested the undersigned voluntarily recuse himself. Dkt. 36. The undersigned declined to  
 24 recuse himself and the Honorable Ricardo S. Martinez, the Chief United States District Judge, has affirmed that  
 decision. Dkt. 39, 40.

1 As courts are consistently finding 42 U.S.C. § 902(a)(3) does not warrant reversal of an  
2 ALJ decision, Plaintiff's arguments in the Motion are not sufficient to warrant an amended  
3 judgment. Furthermore, as stated above, the Court considered the record as a whole, including  
4 Plaintiff's arguments, when reaching its decision. Therefore, Plaintiff has failed to show the  
5 Court committed clear legal error. Accordingly, Plaintiff's Motion (Dkt. 34) is denied.

6 Dated this 14th day of January, 2022.

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10 David W. Christel  
11 United States Magistrate Judge  
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